

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

CASE NO: 11-cr-20129

Plaintiff,

HON. ROBERT H. CLELAND

v.

D-1 SCOTT WILLIAM SUTHERLAND, et al.

Defendants.

/

THE UNITED STATES' MOTION TO CONSOLIDATE

The United States of America, by and through its attorneys, BARBARA L. McQUADE, United States Attorney, Saima S. Mohsin and Eric M. Straus, Assistant United States Attorneys for the Eastern District of Michigan, and Jerome M. Maiatico, Trial Attorney for the United States Department of Justice, moves this Court to consolidate the following two cases, *United States v. Jeff Garvin Smith, et al.* (No. 11-20066) and *United States v. Smiley Villa* (No. 12-20387), with *United States v. Scott William Sutherland, et al.* (No. 11-20129) on the same docket, in order to promote docket efficiency, bring together overlapping pre-trial matters in complex cases, and conserve judicial resources. In support of its motion, the government states the following:

1. In *United States v. Jeff Garvin Smith, et al.* (No. 11-20066), the six-count Indictment charges Defendants Jeff Garvin Smith, Paul Anthony Darrah, Michael William Mastromatteo, Vernon Nelson Rich, Cary Dale Vandiver, Victor Carlos Castano, Edward Allen Taylor, Michael Kenneth Rich, William Scott Lonsby, Keith William McFadden, and FNU LNU, a/k/a "Jesus," with violations of Title 18, United States Code, Sections 2, 371, 876(c), 1503(a), 1513(b)(1), and 1622, and Title 21, United States Code, Sections 841(a)(1) and 846.

2. In *United States v. Smiley Villa* (No. 12-20387), a criminal complaint charges Defendant Smiley Villa with a violation of Title 18, United States Code, Section 922(g)(1).

3. In *United States v. Scott William Sutherland, et al.* (No. 11-20129), the thirty-eight count Third Superseding Indictment charges Defendants Scott William Sutherland, Ronald Raymond Roberts, David Thomas Roberts, Patrick Michael McKeoun, Jeff Garvin Smith, Paul Anthony Darrah, Cary Dale Vandiver, Vincent John Witort, Michael William Mastromatteo, Vernon Nelson Rich, John Renny Riede, Victor Carlos Castano, Gary Lee Nelson, Michael Kenneth Rich, Raymond Charles Melioli, Timothy Paul Downs, David Randy Drozdowski, Smiley Villa, Dean Edward Jakiel, Tony Wayne Kitchens, Sylvester Gerard Wesaw, Ronald Nick Preletz, Howard Joseph Quant, Scott Thomas Perkins, Clifford Chansel Rhodes II, David Roy Delong, Christopher Raymond Cook, Michael John Palazzola, Danny Russell Burby, Jr., Ronald Leon Lambert, Jason Joseph Cook, Edward Allen Taylor, Salvatore Battaglia, William Scott Lonsby, Wayne Russell Werth, Lauri Ann Ledford, Jennifer Lee Cicola, Dean Anthony Tagliavia, Alexis Catherine May, Paula Mileha Friscioni, and John Charles Scudder, with violations of Title 18, United States Code, Sections 2, 371, 922, 924(c), 1001, 1512, 1623, 1952, 1955, 1959, and 1962(d); and violations of Title 21, United States Code, Sections 841, 843, 846, and 860a.

4. The government is filing a separate motion to designate *Sutherland, et. al* (No. 11-20129) as a complex case because of the large number of defendants, scale of charges, range of the conspiracy, and discovery that will include thousands of wire intercepts and voluminous documents.

5. All but one¹ of the Defendants in *Smith, et al.* (No. 11-20066) and *Villa* (No. 12-20387) are also Defendants in *Sutherland, et al.* (No. 11-20129). Moreover, the attorneys who represent defendants in *Smith, et al.* (No. 11-20066) and *Villa* (No. 12-20387) also represent defendants in *Sutherland, et al.* (No. 11-20129).

6. The facts underlying the charges in *Smith, et al.* (No. 11-20066), including the conspiracy to suborn perjury and obstruct justice in the federal trial of Defendant VICTOR

¹ Defendant Keith McFadden, who is charged in Count 6 of *Jeff Smith, et al.* (11-20066) is not charged in *Sutherland, et al.* (No. 11-20129).

CARLOS CASTANO, the threats to a witness and mailing threatening communication by Defendant CASTANO, and marijuana possession and distribution, are listed as overt acts in furtherance of the racketeering conspiracy charged in Count 1 of *Sutherland, et al.* (No. 11-20129). Thus, discovery material related to *Smith, et al.* (No. 11-20066) overlaps the discovery material in *Sutherland, et al.* (No. 11-20129).

7. The facts underlying the criminal complaint in *Villa* (No. 12-20387) include a search of Defendant VILLA's residence where agents recovered a firearm as well as evidence from an assault in Chesterfield Township, Michigan, on or about January 8, 2012. The same assault in Chesterfield Township, Michigan, on or about January 8, 2012, is listed as an overt act in furtherance of the racketeering conspiracy charged in Count 1 and charged as an assault in aid of racketeering activity in Count 36 of *Sutherland, et al.* (No. 11-20129).

8. Because the cases have common defendants and common facts, it is clear that there will be overlapping pre-trial matters, including discovery schedules and issues, plea negotiations, evidentiary matters, and pre-trial motions. In order to promote docket efficiency, bring together these overlapping pre-trial matters in complex cases, and conserve judicial resources, the government moves this Court to consolidate the cases.

9. This motion should not be construed as a motion for joinder under Federal Rules of Criminal Procedure 8 and 13. The government requests that the Court defer ruling on the issue of joinder until the parties have had an opportunity to conduct preliminary discovery and plea negotiations.

10. Pursuant to Local Rule 7.1(a), the government notified all defense counsel of the contemplated motion and was unable to obtain unanimous concurrence.

WHEREFORE, the government asks that this Court grant the United States' motion to consolidate.

Respectfully submitted,

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